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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,973	06/08/2000	Eric J. Hansen	71189-1300	9893
20915	7590	01/09/2006	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,973

Applicant(s)

HANSEN ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12-16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-10, 12-16, 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Amendment

1. Applicant has amended the claims after the Board of Appeals and Interferences Affirmation-in-Part decision. Accordingly, a new grounds of rejection(s) is made in accordance with the present amendment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2-10, 12-16, 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miracle et al (5,576,282) in view of Perkins (4,153,968) and further in view of McAllise et al (5,500,977).

Miracle et al claim a color safe bleaching composition comprising a peroxygen source such as a peracid compound selected from the group consisting of percarboxylic acids and salts, percarbonic acids and salts, perimidic acids and salts, peroxymonosulfuric acids and salts, and mixtures thereof or perborate compounds, percarbonate compounds, perphosphate compounds and mixtures thereof and a bleach activator, wherein said bleach activator is selected from the group consisting of tetraacetythylenediamine, sodium decanoyloxybenzene sulfonate, sodium nonoyloxybenzene sulfonate, sodium octanoyloxybenzene sulfonate, (6-cotanamido-caproyl)oxybenzenesulfonate, (6-nonanamido-caproyl)oxybenzenesulfonate, (6-decanamidocaproyl)-oxybenzenesulfonate, and mixtures thereof (col. 37, lines 34-57).

The reference teaches the preferred embodiment may contain perfumes and is good for use in laundry detergent especially, liquid fine-fabric detergents, machine dishwashing agents and car or carpet shampoos (col. 11, lines 19-46). The use of acrylic/maleic copolymer and glycols is also suggested (col. 21, lines 31-52 and col. 24, lines 1-21).

Miracle et al do not teach a carpet cleaning machine that recovers the cleaning solution from the surface with suction; heating the cleaning solution before admixing

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step; and admixing the oxidizing agent with the cleaning solution prior to dispensing the cleansing solution onto the carpe surface.

Perkins teaches a cleansing device having a circulating system which an aqueous liquid and a detergent are automatically injected to form a continuously supply of cleaning solution which is heated to and maintained at a temperature of approximately 180 degrees Fahrenheit (col. 1, lines 48-54). Perkins further teaches that a nozzle portion that defines two chambers such as a suction chamber and a dispensing chamber, which is isolated from both the suction chamber and the handle (col. 4, lines 1-11) to operate simultaneously when the cleaning head is placed against carpeting (col. 4, lines 8-10). With respect to the order of heating the solutions before the admixing step, Perkins teaches that the cleansing device is not limited to one detergent source but may include two or more reservoirs which could be used alternatively under different conditions and also for certain work and using certain detergents, the cleaning solution may be maintained at some temperatures other than 180 degrees Fahrenheit (col. 9, lines 1-9).

Therefore, it would have been obvious to one of ordinary skill in the art to include the carpet shampoo of Miracle to the machine of Perkins because Miracle indicates that it is operable to many cleansing operations such as shampooing carpets and Perkins invites the use of detergents in its carpet cleansing machines.

With respect to heating the admixture with heated air, McAllise et al teach that it is well known that when an extracting cleansing device is operating in cleansing mode, warm moist exhaust air is discharged through the discharge nozzle whereby the

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cleaning fluid is atomizingly distributed throughout the discharged air and conveyed thereby to the surface being cleaned (col. 12, lines 11-26).

Therefore, the method of heating the cleansing admixture with heated air prior to mixing the admixture with heated air is suggested by the prior art.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 2-10, 12-16, 18-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13-25 and 46-69 of copending Application No. 10/904,054 and 10/710,776, respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims overlap in subject matter pertaining to method of cleaning carpet/upholstery comprising cleaning solution(s) and extraction methods.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Necholus Ogden
Primary Examiner
Art Unit 1751

No
1-3-2006